

# **EXHIBIT B**

**(Plan Resolutions)**

**Bernard L. Madoff Investment Securities LLC**

**RESOLUTIONS**

**November [ ], 2009**

**Recitals**

WHEREAS, on December 11, 2008, the Securities and Exchange Commission filed a complaint in the United States District Court for the Southern District of New York, ("District Court") against Bernard L. Madoff and Bernard L. Madoff Investment Securities LLC, a New York limited liability company ("BLMIS"), alleging acts of securities fraud; and thereafter, on December 15, 2008, on the application of the Securities Investor Protection Corporation, the Hon. Louis L. Stanton of the District Court found that the customers of BLMIS needed protection under the Securities Investor Protection Act of 1970 ("SIPA") and entered an order (i) appointing Irving H. Picard as Trustee ("Trustee") for the liquidation of BLMIS under SIPA, as of December 11, 2008, and (ii) removed the liquidation proceeding to the United States Bankruptcy Court for the Southern District of New York, Case No. 08-1789 (BRL) (the "SIPA Proceeding");

WHEREAS, under SIPA, the Trustee has an affirmative duty to liquidate and wind-down the business operations of BLMIS, including taking such action as may be necessary to amend and then terminate effective as of November 30, 2009, the Bernard L. Madoff Investment Securities LLC Plan (the "401(k) Plan") and liquidate on November 30, 2009, or as soon as administratively feasible, the 401(k) Plan's related trust fund ("Trust Fund");

WHEREAS, the 401(k) Plan is maintained on a Profit Sharing/401(k) Plan Fidelity Prototype Plan Non-Standardized Adoption Agreement #001 ("Adoption Agreement"), which was adopted by BLMIS on May 7, 2003, and the related Fidelity Basic Plan Document #02, revised October 9, 2003 ("Basic Plan Document"), which together, along with subsequent amendments, administrative contracts, administrative procedures and trust documents, comprise the governing document for the 401(k) Plan;

WHEREAS, as the sponsor of the 401(k) Plan, BLMIS has the right to amend or terminate the 401(k) Plan and the Trust Fund at any time pursuant to Article 16 of the Basic Plan Document;

WHEREAS, the Trustee desires that the 401(k) Plan be terminated effective as of November 30, 2009 (the "Plan Termination Date");

WHEREAS, the Trustee desires that the 401(k) Plan Trust Fund be liquidated on November 30, 2009 (or as soon as administratively feasible thereafter) through the distribution of all remaining accounts to the participants, beneficiaries or alternate payees thereunder;

WHEREAS, various recent changes in statutes, regulations and other published guidance under the Internal Revenue Code ("Code") and the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), have revised the requirements related to the tax-qualified status of the 401(k) Plan under Code Section 401(a), *et seq.*, and the tax-exempt status of the Trust Fund under Code Section 501;

WHEREAS, Section 8 of Revenue Procedure 2007-44 , I.R.B. 2007-28 (June 13, 2007), requires that, to maintain its tax-qualified status, the 401(k) Plan must be amended for all relevant changes to the tax-qualification requirements (including requirements that are effective retroactively, as permitted by governing law), that are applicable as of the Plan Termination Date, regardless of any applicable extensions to the deadline for adopting such amendments that may apply to ongoing tax-qualified plans;

NOW, THEREFORE, BE IT:

RESOLVED, that the 401(k) Plan be, and hereby is, terminated effective as of the Plan Termination Date, however the terms of the 401(k) Plan shall remain in effect, and the 401(k) Plan shall continue to be administered in accordance with the terms thereof to the extent necessary to make distributions, wind up any and all claims, and related administrative matters;

FURTHER RESOLVED, that, in connection with the termination of the 401(k) Plan, the Trust Fund be liquidated on November 30, 2009, or as soon as administratively feasible thereafter;

FURTHER RESOLVED, that, the 401(k) Plan be, and hereby is, amended to provide that participation in the 401(k) Plan shall be closed and no employee will participate in the 401(k) Plan after the Plan Termination Date;

FURTHER RESOLVED, that the 401(k) Plan be, and hereby is, amended to cease all contributions to the 401(k) Plan for compensation paid after the Plan Termination Date, and the 401(k) Plan shall not accept contributions after the Plan Termination Date other than (i) contributions that have been accrued on behalf of participants in the 401(k) Plan prior to the Plan Termination Date, and (ii) contributions made on behalf of participants in the 401(k) Plan that are based upon compensation earned before the Plan Termination Date;

FURTHER RESOLVED, that the 401(k) Plan be, and hereby is, amended to address the status of any outstanding participant loans, including the ability of participants to make direct rollovers of loan notes; impose a statute of limitations on any claims that may arise from participants, beneficiaries or alternate payees; and permit any or all appropriate administrative steps to correct any operational errors according to Internal Revenue Service procedures;

FURTHER RESOLVED, as of the appropriate retroactive effective dates, the 401(k) Plan be, and hereby is, amended in conformance with changes in the requirements applicable to the 401(k) Plan under the Code or ERISA, including without limitation changes imposed by the Pension Protection Act of 2006, as amended, the Heroes Earnings Assistance and Relief Tax Act of 2008, the Worker, Retiree, and Employer Recovery Act of 2008, and related revenue rulings, notices thereunder;

FURTHER RESOLVED, the Trustee be, and hereby is, authorized to take all necessary action, including notifying all service providers and any and all custodial or non-discretionary trustees of the Trust Fund, to liquidate the Trust Fund through the distribution of all remaining Accounts to participants, beneficiaries or alternate payees in a manner consistent with the terms of the 401(k) Plan and the Trust Fund;

FURTHER RESOLVED, that the Trustee be, and hereby is, authorized and directed to execute and deliver, in the name and on behalf of BLMIS, all such agreements, documents, amendments, and instruments, and to take all other actions as the Trustee deems necessary or

appropriate to effectuate the termination of the 401(k) Plan, including, without limitation: (i) providing appropriate notices and documents to the participants, beneficiaries or alternate payees of the 401(k) Plan; (ii) preparing and submitting an application to the Internal Revenue Service for a determination of qualification of the 401(k) Plan under Code Section 401(a), et seq., the tax-exempt status of the Trust Fund under Code Section 501, in connection with the termination and liquidation; (iii) preparing and submitting a final Form 5500 Annual Return/Report of Employee Benefit Plan to the Internal Revenue Service and Department of Labor; (iv) engaging accountants, bookkeepers or any related service provider for the continuation of necessary services on behalf of the 401(k) Plan to wind up its administration; (v) preparing and executing any additional technical amendment that is required to ensure that the 401(k) Plan and the Trust Fund are tax-qualified and tax-exempt effective as of the Plan Termination Date; and (vi) negotiating with and/or entering into agreements with the Department of Labor or the Internal Revenue Service in relation to the status of the 401(k) Plan under the relevant provisions of the Code or ERISA;

FURTHER RESOLVED, that the Trustee be, and hereby is, authorized to delegate any or all of the foregoing powers, duties and responsibilities to any other appropriate agents, sub-agents, or representatives, who shall act for and on behalf of the Trustee; and

FURTHER RESOLVED, that any and all actions heretofore taken by any and all officers, employees, agents or sub-agents of BLMIS or the Trustee (or his delegee), consistent with and in furtherance of the foregoing resolutions hereby are ratified, confirmed and approved.

Dated: November \_\_\_, 2009

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Irving H. Picard, in his capacity as Trustee  
for the Liquidation of Bernard L. Madoff  
Investment Securities LLC

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